IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

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WRIT PETITION NO : 6770 of 1995

Between:

Kottana Demudu, S/o.Kanakayya,
Adireddypalem, H/o.Sabbavaram Mandal,
Visakhapatnam Dist **..... PETITIONER**

AND

1. The District Collector,

Visakhapatnam Dist, Visakhapatnam
2. The Revenue Divisional Officer,
Visakhapatnam
3. The Mandal Revenue Officer,

Sabbavaram Mandal, Visakhapatnam Dist
4. Kolli Mutyala Naidu, S/o. Venkanna,
Main Road No.2, Antakapalli Village,
Sabbavaram Mandal, Visakhapatnam Dist.
5. Kolli Kannam Naidu, (died for Lrs)

6. Kolli Demudu, S/o. Mutyalayya,
Main Road No.2, Antakapalli Village,
Sabbavaram Mandal, Visakhapatnam Dist.
7. Kolli Muli Naidu, S/o. Demudu,
Main Road No.2, Antakapalli Village,
Sabbavaram Mandal, Visakhapatnam Dist.
8. Kolli Challayyamma, W/o. Mutyalaiah,
Main Road No.2, Antakapalli Village,
Sabbavaram Mandal, Visakhapatnam Dist.
9. Kolli Pydam Naidu, S/o. Mutyalayya,
Main Road No.2, Antakapalli Village,
Sabbavaram Mandal, Visakhapatnam Dist.

10.Smt. Kolli Demudamma,

11.Kolli Appala Naidu,

12.Kolli Srinu. **....RESPONDENTS**

(Respondents 10 to 12 brought on record as LRs of

deceased Respondent No.5 as per Court order dated 09-09-2004 in W.P.M.P.No.20532 of 2004)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction especially one in the nature of writ of mandamus declaring the proceedings of the 3rd respondent in Rc.No.169/89, Dt.12/7/1989 as illegal, and without jurisdiction and pass such other order.

Counsel for the Petitioner: MR.P.SRI RAGHU RAM

Counsel for the Respondent Nos.1 to 3: GP FOR REVENUE

Counsel for the Respondent Nos.4,5,6 & 8: Mr.M.S.R.SUBRAMANYAM

Counsel for the Respondent Nos.7,9 to 12: None Appeared.

The Court made the following :

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ORDER:

Heard learned Counsel for the parties.

The petitioner contended that he had been in possession and enjoyment of dry land in Survey No.642/1 of Ac.0.70 cents situated in Anthakapalli Village, Sabbavaram Mandal, Visakhapatnam district since long. The land was assigned to him and D-Form patta was granted on 19-9-1977 by the Government. The respondents 4 to 7 and father of the respondents 8 and 9 tried to interfere with his possession and enjoyment of the land and he filed a suit in O.S.No.395 of 1970 before the District Munsif's Court, Anakapalli for permanent injunction. Suit was dismissed on the ground that a suit for injunction would not lie. The judgment and decree was confirmed in appeal. Thereafter the petitioner filed another suit being O.S.No.378 of 1980 before the Prl. District Munsif Court, Anakapalli for possession of the above said land against the same defendants and he added Government as party. After the trial, suit was decreed for possession. The Judgment and decree was confirmed in appeal. E.P. was filed by petitioner being E.P.No.87 of 1992 for delivery of the property. In the meantime, the Mandal Revenue Officer/respondent No.3 cancelled D-Form Patta by his proceedings dated 12-7-1989. The petitioner filed an appeal, which was dismissed by the appellate authority in default. He made a representation on 17-10-1994 to the respondent Nos. 1 to 3 and contended that the Revenue Divisional Officer had no jurisdiction to dismiss the appeal for default. He complained that since there was a decree in his favour, he could not be dispossessed and the order cancelling his patta could not have been passed. After his appeal was dismissed for default, the petitioner filed the writ petition in this Court challenging that order. That writ petition was W.P.No.8133 of 1992. This Court came to the conclusion by its order dated 2-7-1992 that the notice of hearing had been sent to the petitioner and the Advocate acknowledged the notice, therefore, the order of the appellate authority was justified. However, this Court gave liberty to the

petitioner to file a revision before the Joint Collector, Visakhapatnam within two weeks therefrom. This Court granted stay of eviction for a period of eight weeks from the date of passing of the order. Although the order was passed by this Court on 2-7-1992, the petitioner did not approach the Joint Collector by filing a revision within the period granted by the Court.

In this view of the matter, the present writ petition is not at all maintainable. The main grievance of the petitioner was dismissal of his appeal in default, which has already been considered by this Court in W.P.No.8133 of 1992. For these reasons, I do not find merits in this writ petition, which is dismissed. No costs.

9th September, 2004

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Copy to:

1.The District Collector,

Visakhapatnam Dist, Visakhapatnam
2.The Revenue Divisional Officer,
Visakhapatnam
3.The Mandal Revenue Officer,

Sabbavaram Mandal, Visakhapatnam Dist

4.Two CCs to the G.P. for Revenue,

High Court Buildings, High Court of A.P.,

Hyderabad (O.U.T.)

5. Two CD copies.